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**DEPARTMENT OF**  
**INSPECTOR GENERAL**  
**CITY OF YONKERS**

**TO:** Philip A. Amicone, Mayor  
Chuck Lesnick, City Council President  
All City Council Members

**FROM:** Dan Schorr, Inspector General *DS*

**SUBJECT:** 2010 Annual Report

**DATE:** January 19, 2011

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**Overview**

In 2010, the Department of Inspector General (IG) aggressively continued its role as the City's watchdog, despite a mid-year budget cut to our staff. We issued reports on the City's response to Freedom of Information Law requests, cellular phone usage by City employees, the Yonkers Parking Authority's financing of an anticipated legal judgment, public notice for Charter Revision Commission hearings, and firefighter sick leave and overtime costs.

We successfully challenged in court the Board of Education Trustees' policy of denying the IG access to School District information for the purpose of conducting independent audits of the District's administrative operations and are now seeking judicial intervention as a result of similar obstruction by the Yonkers Federation of Teachers Welfare Fund.

We audited several Community Based Organizations that received grant money from the City, conducted numerous vendor background screenings, and tackled a wide variety of other City fiscal, ethical, and organizational issues. One investigation resulted in the arrest of a Yonkers Public Library employee for stealing over \$100,000 in cash from the City.

As this is my first Annual Report as Inspector General, I would like to thank former Inspector General Philip A. Zisman for his many years of dedicated service to the City and for his assistance and professionalism when I took office in February 2010.

## **Mission**

The mission of the IG is to conduct objective and independent audits, reviews, and investigations relating to the Yonkers City government and the administration of the Yonkers Public Schools in order to:

- Promote economy, efficiency, and effectiveness
- Detect and deter fraud, waste, and abuse
- Promote ethical, fiscal, and legal accountability

The focus of the Department's efforts is to foster efficient and honest governmental administration and to aid in the prevention of conduct which undermines the integrity of government. The Department has several core functions:

### *Performance Auditing and Review*

According to the City Charter, a main function of the IG is to monitor City administrative operations. To meet this mandate, the Department conducts operational and financial audits and reviews of City administrative programs to ensure compliance with applicable policies and procedures. The objective of these audits and reviews is to ensure that there are adequate internal control procedures in place that promote the efficiency and integrity of agency operations and reduce vulnerability to fraud, abuse, and corruption. We also make recommendations to management to improve the effectiveness of the agency, and provide information to elected officials as to the details of the work involved in specific municipal operations.

### *Investigations into Allegations of Employee and Official Misconduct*

The City Charter provides that the Department shall conduct investigations at the direction of the Mayor or City Council, or as deemed necessary by the IG. Discretionary investigations that the Inspector General undertakes are based on complaints or tips, both signed and anonymous, information provided by City officials and employees, information reported in the media, and information developed independently by the Department. The IG also provides informal ethics advice to City employees and elected officials, although requests for formal ethics opinions are referred to the Board of Ethics.

### *Vendor Background Screening*

An important function of the Department is to conduct background screening of potential vendors in an effort to ensure that only "responsible" vendors and contractors are hired to provide goods and services to the City and the School District. Vendors and contractors for City and School District contracts complete vendor background questionnaires (VBQs). The questionnaires of vendors for contracts exceeding \$100,000, or for lesser amounts when requested, are verified for accuracy before final contracts are approved. In verifying the accuracy of the VBQs, we seek to uncover undisclosed arrests, indictments, convictions, and criminal associations of company principles, debarments, defaults, suspensions, and/or terminations by other government entities. We also check for undeclared bankruptcy proceedings and undisclosed investigations involving the vendors. If we

find discrepancies in a VBQ, we notify the appropriate City or School District officials and participate in integrity hearings, when required. Material misstatements on a VBQ can lead to the disqualification for a vendor for City or School District contracts. As a result of the IG's staffing cut this past summer, we unfortunately had to suspend background screenings of School District vendors, although we continue to screen potential City vendors.

### *Review of Community Based Organizations*

In 2008, the City Council adopted a resolution which directed the Inspector General to implement an ongoing program to monitor Community Based Organizations ("CBOs") and other entities that receive grant funding from the City. We provide an independent assessment of how City grant funds are being spent. Based on our review of documents, interviews with appropriate CBO staff members, and inspection of operations, we issue a report with findings regarding whether grant funds are being spent in accordance with an approved grant application, whether the CBO properly accounts for grant funds, and whether the CBO has the appropriate accounting policies and procedures in place to safeguard the grant funds. Our reports also make recommendations to address any deficiencies that we may find.

### **Legislative Authority**

The legislative authority of the IG is set forth in Article VII of the Yonkers City Charter. §C7-2 grants the Inspector General the authority to conduct "any investigation directed by the Mayor or the Council" and "any investigation or review which in his or her opinion is necessary to uncover any wrongdoing in City government." This section further states that the "jurisdiction of the Inspector General shall extend to any agency, officer, or employee of the City, or any person or entity doing business with the City, or any person or entity who is paid or receives money from or through the City or any agency of the City." Furthermore, it provides that failure to obey IG subpoenas for records or witness testimony "shall constitute a misdemeanor."

### **Department Staffing**

The Department received a significant budget cut in 2010, reducing the number of staff and hampering its ability to monitor City government and taxpayer funds. At the beginning of the year, the Department consisted of an annual budget of \$432,487 and four full-time staff members: the Inspector General, Deputy Inspector General, Senior Investigator, and Assistant to the Inspector General. Dan Schorr was sworn in as the new Inspector General on February 16. During the summer, the Mayor and City Council cut the IG's annual budget to \$348,188. This reduced budget and the City's offering of an early retirement incentive resulted in the departure of two long-term Department employees who had given many years of devoted service to the City, Senior Investigator Harvey Green and Assistant to the Inspector General Sue Garvey. Ed Benes remains as the Deputy Inspector General and Stuart Levine was subsequently hired as a part-time Senior Investigator. Thus, the Department currently has only two full-time staff members and one part-time employee.

## **2010 Activities**

The Department opened thirty-nine new intake files in 2010. This number does not include the ongoing vendor background screening that the Department continuously conducts, nor does it include other daily activities such as issuing advice regarding municipal ethics and other matters.

For every new intake, we conduct a preliminary review to determine whether a comprehensive investigation or review is warranted. After the preliminary review, matters which do not require further IG involvement are either closed or referred to the appropriate agencies.

Set forth below is a summary of our significant 2010 activities, findings, and recommendations.

### **Inspector General's Dispute with the Board of Education and the YFT Welfare Fund**

In 2009, the IG sought records from the Board of Education regarding its annual payments to the Yonkers Federation of Teachers Welfare Fund and issued a subpoena requesting such documents. Instead of cooperating, the Board sued the Department, arguing that the IG does not have the authority to conduct audits and investigations of the School District, even though the School District currently receives approximately \$218 million per year from the City.

On July 1, 2010, Judge William J. Giacomo ruled in favor of the IG's right to subpoena the Board. In *The Board of Education of the City of Yonkers v. The Office of the Inspector General of the City of Yonkers*, Judge Giacomo held that "local law as well as state law provide defendant with the power and authority to investigate and/or audit the plaintiff with respect to matters not strictly educational or pedagogic." The court also found there to be "an authentic basis for the investigation" of the "health care and union trust and welfare payments."

Following the court ruling, the School District did comply with the IG's subpoena, providing documentation showing annual payments in excess of \$4 million to the YFT Welfare Fund. The IG then sought details of specific expenditures from the YFT Welfare Fund to determine how these funds were being utilized. The YFT Welfare Fund refused to comply with requests for detailed payment information, even when subpoenaed to provide it. Following their refusal to comply with the IG's subpoena, the City Council unanimously adopted a resolution calling upon the Fund to "immediately cease its resistance to the Inspector General's inquiry and to immediately comply fully and completely with the Inspector General's review of the finances of the Yonkers Board of Education including but not limited to monies paid by the City and the Board to the Fund."

Currently, the Fund continues to refuse to cooperate in this audit. On December 2, 2010, the IG filed a motion in Supreme Court to compel compliance with the subpoena, and the matter is currently pending in front of Judge Giacomo. Once legal obstacles are removed and sufficient IG staffing is restored, we intend to proceed with audits and reviews of the YFT Welfare Fund and the Board of Education administrative operations.

## Reports

The Department issues written reports for various audits and investigations. The following are highlights of selected reports issued in 2010. All reports issued by the IG are available online at [www.yonkersny.gov/Index.aspx?page=96](http://www.yonkersny.gov/Index.aspx?page=96).

### *Freedom of Information Law Responses*

We conducted a review of the City's responses to Freedom of Information Law (FOIL) requests. We found that while most FOIL requests are followed by timely responses from the City, there are too many requests that remain open for lengthy periods of time without the required response. We concluded that City departments and the City FOIL officer should better facilitate the timely production of FOIL documents and that standard policies and procedures are needed in order to ensure compliance with relevant law and provide more government transparency for the citizens of Yonkers.

We specifically found that:

- Of the 246 FOIL requests on record for 2009, sixty-seven (27%) did not have a legally required five-day acknowledgement letter to the requestor noted on the FOIL officer's summary activity log.
- If the requested documents weren't provided within the statutory time period, the City rarely, if ever, provided the requesting party with the legally-required 20-day letter regarding the reason for delay and a date certain for compliance.

We specifically recommended that:

- A five-day letter should be sent in all cases in which a full response is not provided within five days, a copy retained in the FOIL officer's file, and its creation noted on the FOIL summary activity log.
- Each City department should designate an existing employee as a FOIL liaison who will be responsible for coordinating with the FOIL officer to provide documents effectively and efficiently.
- Each department must notify the FOIL officer if it provides documents pursuant to a FOIL request and provide the FOIL officer with the relevant cover letter and payment.
- The FOIL officer should inform the appropriate FOIL liaison, in writing, of new requests and require a response within fifteen business days, unless a longer time period was specified in the five-day letter to the requestor.
- FOIL liaisons should respond to the FOIL officer promptly using a standard form.
- If the requested documents cannot be provided within the statutory time period, the FOIL officer must provide the requesting party with the legally-required 20-day letter regarding the reason for delay and a date certain for compliance.
- The FOIL officer's summary activity log should be kept up-to-date and include additional relevant and useful information, such as "documents provided," "denial" with an explanation, or "waiting for requestor to pay."
- The FOIL officer should expand the utilization of email to respond to FOIL requests and more documents should be available on the City website.

- A document of policies and procedures should be created to guide the City in its responses to FOIL requests.

### *Review of Cellular Phone Usage*

We analyzed the use of cellular phones by City employees, which costs the City approximately \$255,000 per year. We concluded that increased monitoring of cell phone use, elimination of cell phones that are not regularly used, consolidation of cell phone plans, and centralization of cell phone administration should result in cost savings for taxpayers. In addition, a new City cell phone policy that includes random monitoring was recommended in order to deter improper cell phone use without unduly burdening the City work force.

We specifically found that:

- With respect to the total monthly usage (peak and non-peak) of all the 433 City cell phones: 77 were used more than 1,000 minutes. Of these 77 phones, 41 were used more than 1,500 minutes, and 20 used more than 2,000 minutes during the period of our review. Additionally, 162 phones were used less than 200 minutes and 128 of these phones were used less than 100 minutes.
- For the main Verizon bill, a 300 minute per month cell phone costs \$29.99 per month, while a 600 minute per month phone costs \$42.99. For blackberries, a 300 minute phone costs \$49.99 and a 600 minute phone costs \$62.99. Thus, adding another 300 minute phone will cost either \$29.99 or \$49.99 per month, but adding an additional 300 minutes to an existing phone will only cost \$13 per month. Phones with minimal usage should be eliminated and minutes added to other phones, as necessary.

We specifically recommended that the City should:

- Create a new cell phone policy for monitoring monthly cell phone usage that includes random monthly reviews of employee call details.
- Centralize administration of cell phones so that usage and costs can be better monitored.
- Explore consolidation of the thirteen City cell phone bills in an effort to generate cost savings.
- Eliminate cell phones for employees with minimal usage and increase plan minutes for others, as needed.
- Review existing data lines and air cards for additional cost savings

### *Yonkers Parking Authority's Financing of an Anticipated Legal Judgment*

Mayor Amicone requested that the IG "research and then recommend an appropriate course of action regarding the Yonkers Parking Authority's (YPA) request to amend its 1964 Master Service Agreement so that the debt service for refinancing will be guaranteed in the unlikely event of a default on the part of the YPA." Specifically, in order to restructure existing debt of approximately \$2.3 million and pay for the anticipated judgment regarding the prior acquisition by eminent domain of property located at 310 Saw Mill River Road, the YPA had proposed issuing a new bond for approximately \$3.5 million. The City would have to guarantee the bond and annually appropriate \$350,000 in the budget in the event the YPA could not make the monthly payments.

We recommended a more prudent short-term option in which the YPA would deed the property to the City and the City would advance the YPA \$800,000 from a Capital Improvement Plan bond issue. The YPA would then re-pay the City annually through direct payments or a reduction in the annual City payment related to the Buena Vista parking garage. Following our report, the Mayor and City Council adopted the plan that we set forth.

We further recommended that the City analyze the potential cost-savings and investigate other advantages and disadvantages of consolidating the YPA into the City and proceed with consolidation if it appears beneficial.

#### *Charter Revision Commission*

In response to a request from the City Council and concerns expressed by members of the public, we reviewed public notice given by the Charter Revision Commission (CRC) prior to approving two amendments for the November ballot. Although the CRC held numerous meetings, our investigation was limited to the two public hearings prior to the CRC vote.

After reviewing the relevant facts and law, we concluded that both the August 16 and August 26 CRC hearings were conducted after sufficient public notice. Therefore, we saw no public notice deficiency that would prevent the CRC proposals from appearing on the November ballot.

However, there was apparent legal and public confusion regarding the requirements for notice for CRC hearings and meetings, and therefore we recommended that the City Council and Mayor adopt a local law setting forth a five day time period for notice requirement and specify the form that this notice must take. Furthermore, we suggested that, until the City Council acts on such a law, the Office of Public Affairs and the Office of the Corporation Counsel should publicly issue interim guidelines that the City will follow for future CRC public notice.

Unfortunately, there has yet to be any action regarding these recommendations. In addition, we are concerned about potential problems regarding public notice for earlier meetings of the CRC. For example, the *Journal News* reported that the City could not provide any documents in response to a FOIL request for public notice information for two such meetings.

We once again urge the City to act in order to clarify the public notice policies and legal requirements in order to prevent future confusion and to ensure proper public notice.

#### *Firefighter Sick Leave*

Overtime costs pose a significant problem for the City's budget, and consequently we reviewed the costs and procedures for firefighter sick leave and the resulting overtime. We found that firefighters' heavy utilization of their unlimited paid sick leave for non-job related illnesses and injuries has dramatically increased in the past decade and results in significant overtime costs to the City. There is little oversight of those who call in sick and current financial incentives fail to discourage its continued widespread use. New monitoring procedures and a restructured annual

financial incentive are needed in order to reduce the frequency of sick leave and the consequent high overtime costs.

We specifically found that:

- Firefighters averaged 5.87 tours on sick leave in 2003, and that number climbed to 7.86 tours in 2004 and 9.83 tours in 2005. This figure reached a high of 10.62 tours in 2006 and thereafter slightly declined to 9.6 tours in 2009, when the City employed approximately the same number of firefighters as it did in 2003.
- The average net additional cost to the City for one sick tour is approximately \$441. If the number of 9.6 sick days averaged per firefighter is reduced by one to 8.6, the City will save approximately \$137,000 per year. If the average sick days are reduced to the 2003 level of 5.87 days per firefighter, the City will save approximately half a million dollars per year.
- The “Productivity Incentive Payment” that is intended to discourage excessive sick leave, has a meaningless, and possibly counterproductive, structure. An individual firefighter only sees a negligible reduction, at most, in his incentive payment for each sick day taken, because the final payment is calculated using the average number of sick days for all firefighters. An additional sick day taken by one individual barely alters the final average for the approximately 310 firefighters, so any financial incentive for one firefighter to not take a sick day is severely diluted.
- There is insufficient oversight of firefighter sick leave. Utilizing sick time is very easy, with little or no verification on most occasions of actual illness and an absence of meaningful consequences and deterrents for excessive sick leave.
- We found several examples of significant sick leave accompanied by other schedule manipulations that resulted in questionable work schedules. For example, one firefighter was out on leave for fifty-six of the approximately 160 scheduled tours, through a combination of personal, vacation, and sick time, resulting in only working ninety-seven tours in 2009. Of these ninety-seven tours worked, only thirty-one were at the originally scheduled times. Additionally, although he was out sick for thirty-two tours, he was able to work thirty-one overtime tours during the year, earning more than \$18,000 extra in overtime. This firefighter also did not work at all for a period of two months, from June 5 to August 4, by taking off eight vacation days, twenty-two mutuels, and four sick tours.

We specifically recommended that:

- Excessive sick leave should result in meaningful deterrents, such as a loss of the ability to earn overtime, schedule 24-hour shifts, and work a second job.
- The City should propose a new sick incentive program based on an individual firefighter’s actual annual use of sick leave, not the average of all firefighters. Such a system is already utilized by the YFD fire officers and the Yonkers Police Department (YPD).
- The YFD should employ a Medical Control Unit, perhaps jointly with the YPD, to better monitor sick leave and prevent abuse, such as through home visits.
- YFD sick leave procedures should include supervisory notification by the sick firefighter.
- The YFD should provide their firefighters with full-time access to a medical professional, possibly by contracting with St. John’s Hospital in conjunction with the YPD to share and save costs.



- The Personnel Department should explore requiring that all information regarding leave time taken by members of the YFD and YPD be inputted into the City's automated payroll system

### **CBO Inspection and Review Program**

As part of the ongoing CBO Inspection and Review program, we issued four reports regarding CBOs that received grant funding and loans from the City:

- Nepperhan Community Center
- Legal Services of the Hudson Valley
- North Yonkers Preservation and Development Corp.
- Living Transformation International Center

In all of these reviews, we found that the City's grant funding and loans were accounted for and that there were adequate internal controls to safeguard the City funds. The scope of the Inspection and Review Program has unfortunately been reduced due to the Department's recent staffing cut.

### **Vendor Background Reviews**

We conducted fifty-five vendor background screenings for proposed contracts with a total value in excess of \$17 million. In several instances, the screening process either resulted in the rejection of a contractor's bid or led to a mitigated arrangement, thus helping to protect the City from liability and undesirable vendors while strengthening compliance with public contracting laws. A few examples are listed below:

- Upgrades to select building components and emergency utilities  
An investigation of a vendor revealed a relationship to an individual currently under indictment in New York's Southern District. The indictment charged several individuals with bribery and racketeering-related charges in a corruption case linked to Carpenters Union officials.
- Repair and service of oil burners  
A bid by a vendor was rejected when our investigation revealed past willful violations of New York State Labor Laws, and a current investigation concerning prevailing wage violations was not disclosed in the VBQ.
- Linden Street Pool demolition  
A vendor was disqualified because our screening process revealed a current judgment from the NYS Department of Labor regarding violations related to Article 18 of the Labor Law, in addition to a pending NYS Supreme Court matter.

### **Investigations into Allegations of Employee and Official Misconduct**

In 2010 we conducted several investigations into allegations of misconduct by government officials and employees. Most notably, a December investigation led to the Grand Larceny arrest by the Yonkers Police Department of a long-time employee of the Yonkers Public Library, Margo Reed. The investigation uncovered evidence demonstrating that Ms. Reed stole well over \$100,000 in cash

from the City of Yonkers over the course of several years. We are currently working with the Westchester County District Attorney's Office and the Yonkers Police Department in the prosecution of Ms. Reed.

### **Ethics Matters**

As Inspector General, I regularly receive ethics questions and inquiries regarding potential conflicts of interest. I generally provide informal and confidential ethics advice, and refer the employee to the Board of Ethics if a formal ethics opinion is necessary. In addition, we made two referrals to the Board of Ethics involving possible ethics violations brought to our attention by the public.

### **Conclusion**

In 2011, the Department will continue to work closely with government officials and the public in an effort to safeguard taxpayer funds and to advance government that operates consistent with applicable laws and policies in an efficient and effective manner. As we expand the audits and investigations conducted by the Department, we will continue to encourage the City and School District to explore opportunities for consolidation in order to streamline government operations and save resources. In the next budget we will seek to restore our staffing level to that of the previous year's budget so that we can better monitor City and School Board administrative operations. We aim to save taxpayer dollars and promote government integrity through audits and reviews, vendor background screenings, examinations of City-funded Community Based Organizations, investigations into allegations of employee and official misconduct, and assistance in other matters of concern to government officials and the Yonkers community.